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STATE OF FLORIDA



DIVISION OF ECONOMICS  
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# Public Service Commission

November 28, 2023

To All PSC Regulated Electric, Natural Gas, and Water and Wastewater Utilities

**Re: Statement of Estimated Regulatory Costs (SERC) Data Request for Proposed Amendment of Rule 25-14.004, Florida Administrative Code (F.A.C.), Determination of Total Corporate Income Tax.**

Dear Utility Owner:

The Florida Public Service Commission (PSC) staff has proposed amendments which update Rule 25-14.004, F.A.C., Determination of Total Corporate Income Tax. By amending this rule, utilities will be treated on a stand-alone basis regarding income taxes and no portion of the interest expense benefit of a parent company will be attributed to a utility. This rule is applicable to all electric, natural gas, water and wastewater utilities that are subject to PSC's jurisdiction. In order to assess and consider the fiscal impacts of the proposed amendments and to prepare a SERC, PSC staff respectfully requests that you respond to the following data request included in pages 2-3. For ease of reference, staff has also attached the most recent draft of Rule 25-14.004, F.A.C., with this data request.

Please file all responses electronically no later than December 12, 2023 via the Commission's website at [www.floridapsc.com](http://www.floridapsc.com) by selecting the Clerk's Office tab and Electronic Filing Web Form. Please contact me at [sguffey@psc.state.fl.us](mailto:sguffey@psc.state.fl.us) or at 850.413.6204 if you have any questions regarding this data request.

Thank you.

*/s/Sevini Guffey*

Sevini Guffey

Public Utility Analyst IV

cc: Office of Commission Clerk

**Rule 25-14.004, F.A.C., Determination of Total Corporate Income Tax  
Statement of Estimated Regulatory Costs Data Request**

NOTE: THIS DATA REQUEST IS APPLICABLE ONLY TO THE UTILITIES THAT  
HAVE A PARENT COMPANY

For purposes of this data request, “incremental” means the net change anticipated as necessary to comply with the draft amended version of the rule. In other words, practices and costs under the current version of the rule should be compared to anticipated practices and costs under the draft amended rule, and the difference between the two is considered “incremental.”

For each of the questions below, consider your utility’s present practices under the current version of Rule 25-14.004, Florida Administrative Code (F.A.C.), and the practices necessary to comply with the draft amended rule. A responsive answer will indicate only the incremental change in costs or practices necessary to comply with the draft amended version of the rule compared with the cost or practices under the current rule. Any cost or practice already required by the current version of Rule 25-14.004, F.A.C., should not be included in your answers.

Considering draft revisions to Rule 25-14.004, F.A.C., attached to this data request, response criteria, and definition of the term “incremental” noted above, please respond to the following questions.

1. Proposed revisions to Rule 25-14.004, F.A.C., describes the methodology how a regulated utility’s stand-alone income tax expense will be calculated. Would calculating your utility’s stand-alone income tax expense using the proposed methodology result in incremental costs to your utility? If yes, please state the incremental annual cost.
2. Would the proposed revisions to Rule 25-14.004, F.A.C., directly or indirectly result in incremental regulatory costs to your utility in excess of \$200,000 in the aggregate in Florida within 1 year after implementation of the rule?
3. Please state if the proposed rule revisions would result in any cost savings to your utility and if so, state the categories and estimated amounts of cost savings.

A “Small Business” is defined by Section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

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4. Considering the above stated definition, please state if your water and/or water and wastewater utility is a small business.
5. If yes, please state if the proposed rule would have an adverse, minimal, or no financial impact on your utility.
6. Would the proposed rule directly or indirectly result in incremental regulatory costs to your utility in excess of \$200,000 in the aggregate in Florida within 1 year after implementation of the rule?
7. Would the proposed rule revisions have an adverse incremental impact on economic growth, private-sector job creation or employment, and private-sector investment in excess of \$1 million in the aggregate within 5 years after implementation of the rule?
8. Would the proposed rule revisions have an adverse incremental impact on business competitiveness, productivity, and innovation in excess of \$1 million in the aggregate within 5 years after implementation of the rule?
9. Would the proposed rule revisions result in incremental regulatory costs, including any transactional costs (Transactional costs” include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule) to your utility, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? If yes, please explain.

A “Small City” is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A “small county” is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

10. Considering the above definition, please state if your utility serves a small city or several small cities, or a small county/counties? Would the small city/cities/county/counties served by your utility have financial impacts or no impacts due to the proposed rule revisions?
11. Please provide any additional information, including any tasks not identified above, which would result in incremental costs to you utility, due to the proposed revisions to the rule, which the Commission may determine useful. [120.541(2)(f), F.S.]

1       **25-14.004 Determination ~~Effect of Parent Debt on~~ Federal Corporate Income Tax.**  
2       In Commission proceedings to establish revenue requirements or address over-earnings, ~~other~~  
3       ~~than those entered into under Rule 25-14.003, F.A.C., the~~ federal income tax expense of a  
4       regulated utility company must shall be determined using only the income of the regulated  
5       utility regardless of any ~~adjusted to reflect the income tax expense of the parent debt that may~~  
6       ~~be invested in the equity of the subsidiary where a parent-subsidiary relationship that exists,~~  
7       ~~and the parties to the relationship join in the filing of a consolidated income tax return. The~~  
8       regulated utility's stand-alone federal income tax expense will be calculated as follows:  
9       (1) State corporate income taxes will be determined by multiplying the regulated utility's  
10       net income before state and federal income taxes by Florida's corporate income tax rate.  
11       ~~Where the regulated utility is a subsidiary of a single parent, the income tax effect of the~~  
12       ~~parent's debt invested in the equity of the subsidiary utility shall reduce the income tax~~  
13       ~~expense of the utility.~~  
14       (2) The state corporate income taxes as calculated above will then be deducted from the  
15       regulated utility's net income before income taxes to yield the net income after state income  
16       taxes. ~~Where the regulated utility is a subsidiary of tiered parents, the adjusted income tax~~  
17       ~~effect of the debt of all parents invested in the equity of the subsidiary utility shall reduce the~~  
18       ~~income tax expense of the utility.~~  
19       (3) The net income after state income taxes as calculated above will then be multiplied by  
20       the federal corporate income tax rate to yield the federal corporate income tax for the  
21       regulated utility. ~~The capital structure of the parent used to make the adjustment shall include~~  
22       ~~at least long term debt, short term debt, common stock, cost free capital and investment tax~~  
23       ~~credits, excluding retained earnings of the subsidiaries. It shall be a rebuttable presumption~~  
24       ~~that a parent's investment in any subsidiary or in its own operations shall be considered to~~  
25       ~~have been made in the same ratios as exist in the parent's overall capital structure.~~

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1       ~~(4) The adjustment shall be made by multiplying the debt ratio of the parent by the debt~~  
2 ~~cost of the parent. This product shall be multiplied by the statutory tax rate applicable to the~~  
3 ~~consolidated entity. This result shall be multiplied by the equity dollars of the subsidiary,~~  
4 ~~excluding its retained earnings. The resulting dollar amount shall be used to adjust the income~~  
5 ~~tax expense of the utility.~~

6       *Rulemaking Authority 350.127(2) FS. Law Implemented 366.05(1), 367.121(1)(a) FS.*  
7       *History—New 1-25-83, \_\_\_\_\_. Formerly 25-14.04.*

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